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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,491	12/04/2003	Yoshio Mukaiyama	10517/199	7538
23838	7590	11/01/2005	EXAMINER	
KENYON & KENYON 1500 K STREET NW SUITE 700 WASHINGTON, DC 20005			NGUYEN, THU V	
			ART UNIT	PAPER NUMBER
			3661	

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/726,491

**Applicant(s)**

MUKAIYAMA, YOSHIO

**Examiner**

Thu Nguyen

**Art Unit**

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 7/27/05 & 8/18/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

The amendment filed on July 27, 2005 has been entered. By this amendment, all claims 1-20 are now pending in the application.

#### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. In claim 1, lines 5-6; claim 17, line 6; the claimed the disclosed "therefrom" is ambiguous in view of the amended preamble, it is not clear if "the" pieces of information disclosed in line 5 is collected from the vehicle, or if it is collected from the information received from the transmitted packages disclosed in lines 3-4.
- b. Claim 11, line 13; claim 19, line 13, the claimed "therefrom" is similarly ambiguous as explained in claim 1 above.
- c. Other claims are rejected as being dependent on the rejected base claims.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior

art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 11, 17, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breed et al (US 2002/0198632) and further in view of Ogura et al (US 6,317,682).

As per claim 1, 17, Breed teaches a vehicular communication apparatus installed in a vehicle for establishing bidirectional communication with a foreign moving object (para 0511-0512; 0621) in which a plurality of pieces of information are repeatedly transmitted and received in a constant cycle (lines 10-15 of para 0342; para 628), the apparatus comprises: a collection device that collects a plurality of pieces of information on the vehicle (para 0530-0531, 0546); a transmission device that transmits pieces of information to the foreign moving object (para 0316). Breed does not explicitly disclose a selection device that collects a plurality of pieces of information and that selects the pieces of information to be transmitted in accordance with an emergency level that is determined in accordance with the relationship between the host vehicle and the moving object. However, Ogura teaches a selection device that collects a plurality of pieces of information and that selects the pieces of information to be transmitted in accordance with an emergency level determined in accordance with the relationship between the transmitting device and the object (col.6, lines 4-67; col.7, lines 9-11). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to implement the selection device taught by Ogura to the apparatus taught by Breed in order to save transmission bandwidth by transmitting only appropriately related messages to other vehicles.

As per claim 11, 19, Breed teaches a vehicular communication apparatus for bi-directional communication in which a plurality of pieces of information are repeatedly transmitted and received in a constant cycle (lines 10-15 of para 0342; para 628). The apparatus comprises: a transmission device for transmitting information including an identification code for the foreign moving object to identify the vehicle, a reception device, a collection device (para 0530-0531, 0546), and the detection device (para 0344-0345). Breed does not explicitly teach a selection device for selecting information in accordance with an emergency level. However, Ogura teaches selecting information according to the emergency level (refer to claim 1 above). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the selection device of Yu to the system of Breed, and to select the information according to the emergency level as taught by Ogura in order to save the transmission bandwidth.

5. Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breed et al (US 2002/0198632) and further in view of Ogura et al (US 6,317,682) and further in view of Yu et al (US 2003/0125846)

As per claim 2-5, Yu teaches selecting information according to a type of the foreign moving object (para 0051, 0043) or the relationship between the vehicle and the foreign moving object and a circumstance in which the foreign object run (para 0044). Moreover, Yu teaches selecting information according to user preference of the foreign moving object (para 0040), further, generating request for information would have been well known.

6. Claims 6-10, 12-16, 18, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breed et al (US 2002/0198632) in view of Ogura et al (US 6,317,682) and further in view of Yu et al (US 2003/0125846) and Taylor (US 2003/0169185).

As per claim 6-10, Breed teaches the capability of transmitting emergency messages at priority level (para 0349; 0300-0302). Moreover, Taylor teaches determining an emergency level with the foreign object on the basis of relationship between the vehicle and the foreign object, determining foreign object to be communicated with, and providing information concerning emergency level (para 0054; 0076; 0095-0135); moreover, changing frequency in accordance with the emergency level for adjusting the frequency of message sending would have been well known. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the capability of categorizing information into different emergency level in order to facilitate providing warning to the user accordingly.

As per claim 12-16, refer to claims 1, 7-8 above. Moreover, Breed teaches the moving object reception device and the capability of providing emergency information and collision avoidance (para 0300-0302), furthermore, Taylor teaches including the capability of recognizing emergency level from a received information (para 0095-0135), moreover, processing data according to the emergency level would have been well known.

As per claim 18, 20, refer to claim 6, 12 above.

***Response to Arguments***

7. Applicant's arguments filed July 27, 2005 have been fully considered but they are not persuasive.

In response to applicant's argument on page 8 last two paragraphs, although applicant's asserted that the information is transmitted during normal situation (instead of just emergency situation), the disclosed detailed in the specification seems to disclosed that the vehicle to vehicle communication is just established when certain qualified condition is met (para 0051) and that the communication is established when the foreign object is in a predetermined region (para 0050), this disclosure means the communication between vehicles are not always exists, instead it exists when the vehicle and the foreign object is in a predetermined region, this predetermined region may be region where the vehicle are in closed distance, etc. Breed teaches transmitting pieces of information (vehicle position, type of vehicle, etc.) in constant cycle (in fixed spacing between transmission) in para 0342 and para 0628.

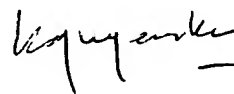
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Nguyen whose telephone number is (571) 272-6967. The examiner can normally be reached on T-F (7:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3661

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

October 27, 2005



**THUY V. NGUYEN**  
**PRIMARY EXAMINER**